IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION Nos.15475 & 15590 of 2004

WRIT PETITION No: 15475 of 2004

Between:

1 The Secretary to Govt., Health Medical & Family Welfare Department, A.P.Secretariat, Hyderabad.
2 The Commissioner, Indian Medicines & Homoeopathy, A.P. Secunderabad.

..... PETITIONERS

AND

Dr.CH.Ranga Rao, Reader (Retd.)H.No.1-2, Siddhartha R.K. Appt. Opp.Directorate of Women Development, Yousuf Guda Main Road, (Sarthi Studio Road)
Ameerpet, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to

issue an appropriate writ or direction more particularly one in the nature of "writ of certiorari" calling for the records connected with order dt.7-1-2004 in O.A.No.1100/99 on the file of the Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad and quash the same as illegal and erroneous.

Counsel for the Petitioner: GP FOR SERVICES I

Counsel for the Respondent: None appeared

WRIT PETITION NO : 15590 of 2004

Between:

1 The Secretary to Government Health Medical & Family Welfare Department, A.P.Secretariat, Hyderabad
2 The Commissioner, Indian Medicines & Homoeopathy, Andhra Pradesh, Secunderabad

..... PETITIONERS

AND

Dr.M.Mahender Raj, Professor (Retd.)
H.No.16-3-838/1-2, Opp.Warangal Central Public School Gate, Ekashila Nagar, Warangal

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ or direction more particularly one in the nature of "Writ of Certiorari" calling for the records connected with order dated 07-01-2004 in O.A.No.1101/99 on the file of the Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad and quash the same as illegal and erroneous.

Counsel for the Petitioner: GP FOR SERVICES I

Counsel for the Respondent: None appeared.

The Court made the following:

ORAL COMMON ORDER:- (PER GB,J.)

Both the Writ Petitions can be disposed of by a common order as they arise out of a common order, dated 07.01.2004, passed by the A.P. Administrative Tribunal in O.A.Nos.1100 and 1101 of 1999.

2. The unofficial respondents filed O.As. seeking notional promotion to the post of Principals and Additional Directors in Medical Services. The Tribunal after considering the matter thoroughly, allowed the O.As. with a direction to promote them notionally on the basis of panel year 1997-98, against which the present Writ Petitions have been filed by the Government.

3. The learned Government Pleader submits that the order of the Tribunal is not sustainable in law, inasmuch as, even though vacancy arose in the year 1996-97, their cases could not be considered as there was stay granted by the Tribunal at the instance of some other employees, and therefore, as on date, the petitioners have already retired from service. Therefore, question of granting notional promotions to the respondents could not arise.

4. We are afraid we cannot accept the contention raised by the learned Government Pleader.

5. This issue was discussed in Para No.5, which reads as:

> "In view of the above, as the names of the applicants were already included in the panel year of 1997-98 and as the vacancies arose during and also prior to the panel year 1997-98, the applicants ought to be given promotion even at this stage notionally with effect from the date on which they would have been considered for promotion with reference to the date of occurrence of vacancy in the cadre of Additional Director (Ayurveda)/ Post-graduate Professor/Principal of Ayurveda Colleges. The Government are directed accordingly to give orders assigning notional date of promotion to the applicants with reference to the date of occurrence of vacancy and also with reference to the placement in the panel year 197-98 at Sl.Nos.4 and 1 respectively and duly granting them notional increments, if any, due and also revise the pension and other pensionary benefits due to the applicants which might have been already settled, within a period of three months from the date of receipt of a copy of this order. Both the O.As. are accordingly allowed. No costs."

6. Inasmuch as the petitioners are entitled for consideration of promotion and since it was not granted on the ground that the stay was operating for promotions at the instance of some other employees, the unofficial respondents cannot be denied the same. Thus, we do not find any illegality in the order of the Tribunal.

7. Accordingly, both the Writ Petitions are dismissed. No costs.

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G. BIKSHAPATHY, J.

P.S. NARAYANA, J.

Date: 31.01.2005

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To

1 The Secretary to Govt., Health Medical & Family Welfare Department, A.P.Secretariat, Hyderabad.
2 The Commissioner, Indian Medicines & Homoeopathy, A.P. Secunderabad.

3 The Registrar, A.P. Administrative Tribunal, Hyderabad.

4 2 CCs to the G.P. for Services-I, High Court of A.P., Hyderabad (OUT).

5 2 CD copies.